

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	MB Docket No. 19-156
	)	
<b>ENTERTAINMENT MEDIA TRUST,</b>	)	
<b>DENNIS J. WATKINS, TRUSTEE</b>	)	
	)	
Applications to Renew License:	)	
	)	
KFTK(AM) (formerly WQQX(AM)),	)	Facility ID No. 72815
East St. Louis, Illinois	)	File No. BR-20120709ACP
	)	
WQQW(AM), Highland, Illinois	)	Facility ID No. 90598
	)	File No. BR-20120709ACO
	)	
KZQZ(AM), St. Louis, Missouri	)	Facility ID No. 72391
	)	File No. BR-20120921AAW
	)	
KQQZ(AM), DeSoto, Missouri	)	Facility ID No. 5281
	)	File No. BR-20120921ABA
	)	
Application for Consent to Assignment of	)	
Licenses:	)	
	)	
KFTK(AM) (formerly WQQX(AM)),	)	Facility ID No. 72815
East St. Louis, Illinois	)	File No. BAL-20160919ADH
	)	
WQQW(AM), Highland, Illinois	)	Facility ID No. 90598
	)	File No. BAL-20160919ADI
	)	
KZQZ(AM), St. Louis, Missouri	)	Facility ID No. 72391
	)	File No. BAL-20160919ADJ
	)	
KQQZ(AM), DeSoto, Missouri	)	Facility ID No. 5281
	)	File No. BAL-20160919ADK
	)	
Application for Permit to Construct New Station:	)	
	)	
W275CS, Highland, Illinois	)	Facility ID No. 200438
	)	File Nos. BNPFT-20170726AEF
	)	BNPFT-20180314AAO

**ORDER**

Issued: October 4, 2019

Released: October 4, 2019

1. On September 11, 2019, Entertainment Media Trust, Dennis J. Watkins, Trustee (EMT), filed a motion for stay of this hearing proceeding, or in the alternative an “indefinite extension of time for all pending discovery requests.”<sup>1</sup> EMT cites as justification its filing for Chapter 7 bankruptcy protection in the Southern District of Illinois. The Presiding Judge issued an order on September 12, 2019, temporarily relieving EMT of its duty to respond to pending discovery requests so as to afford the other parties to the proceeding an opportunity to address EMT’s motion.<sup>2</sup> Petitioner Mark Kern filed an opposition to EMT’s motion on September 16, 2019.<sup>3</sup> The Enforcement Bureau filed its opposition to the EMT motion on September 17, 2019.<sup>4</sup> Pursuant to an order of the Presiding Judge establishing a modified schedule for the filing of further pleadings regarding the requested stay, Trustee in Bankruptcy Donald M. Samson filed a reply to the Enforcement Bureau and Kern oppositions on September 23, 2019, and the Bureau and Kern each filed responses to the Trustee’s reply on September 26, 2019, and September 27, 2019, respectively.<sup>5</sup>

2. EMT contends that its bankruptcy filing requires immediate stay of this proceeding pursuant to section 362(a)(1) of the Bankruptcy Code, 11 U.S.C. § 362(a)(1), which indicates that a covered bankruptcy petition “operates as a stay” on the following:

the commencement or continuation, including the issuance or employment of process of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title.

EMT asserts that, presumably due to this automatic stay provision, it has no authority to take any action that may materially affect the assets that are the subject of the bankruptcy proceeding. That would preclude, it argues, further participation in this hearing proceeding.<sup>6</sup>

3. Opponents Mark Kern and the Enforcement Bureau cite an exception to the stay provision, 11 U.S.C. § 362(b)(4), which states that the filing of a covered bankruptcy petition “does not operate as a stay” of the following:

the commencement or continuation of an action or proceeding by a governmental unit . . . to enforce such governmental unit’s or

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<sup>1</sup> Entertainment Media Trust, Motion for Stay of Proceedings or In the Alternative Extension of Time, MB Docket No. 19-156 at 4 (filed Sept. 11, 2019) (EMT Motion for Stay).

<sup>2</sup> Entertainment Media Trust, Order, MB Docket No. 19-156, FCC 19M-09 (Sept. 12, 2019).

<sup>3</sup> Mark Kern, Opposition to Motion for Stay of Proceedings or In the Alternative Extension of Time, MB Docket No. 19-156 (filed Sept. 16, 2019) (Kern Opposition to Stay).

<sup>4</sup> Enforcement Bureau’s Opposition to EMT’s Motion for Stay of Proceedings on in the Alternative Extension of Time, MB Docket No. 19-156 (filed Sept. 17, 2019) (EB Opposition to Stay).

<sup>5</sup> Entertainment Media Trust, Order, MB Docket No. 19-156, FCC 19M-10 (Sept. 18, 2019); Donald M. Samson, Trustee, Reply to Oppositions (filed Sept. 23, 2019) (Trustee Reply); Enforcement Bureau’s Response to Chapter 7 Trustee’s Reply to Oppositions (filed Sept. 26, 2019) (EB Surreply); Mark Kern, Response to Trustee’s Reply to Oppositions to EMT Motion for Stay (filed Sept. 27, 2019) (Kern Surreply).

<sup>6</sup> EMT Motion for Stay at 3.

organization's police and regulatory power, including the enforcement of a judgment other than a money judgment, obtained in an action or proceeding by the governmental unit to enforce such governmental unit's or organization's police or regulatory power."

Petitioner Kern points out that the Commission has considered this exception applicable to its regulatory proceedings. In particular, Kern notes, the Commission has stated that, "[p]ursuant to the regulatory exception, government agencies may adopt and enforce regulatory orders against debtors in bankruptcy, including but not limited to holding hearings."<sup>7</sup> The Enforcement Bureau concurs that because this proceeding "was commenced for the very purpose of determining whether EMT violated the Commission's rules," it constitutes the Commission exercising its regulatory power and the automatic stay provision of the Bankruptcy Code is therefore not operative.<sup>8</sup> Opponents also note that EMT failed to satisfy, or even address, the traditional four-part *Virginia Petroleum Jobbers* test followed by the Commission and the courts to determine whether a stay is warranted.<sup>9</sup>

4. In his reply to the oppositions, Trustee Samson contends that the regulatory exception to the automatic stay should not apply because this case involves Chapter 7 bankruptcy rather than Chapter 11. As such, the Trustee argues, the debtor does not attain debtor-in-possession status but instead relinquishes control of the assets of the bankruptcy estate. Failure to grant the stay, he argues, "would serve only to destroy the value of the assets that the Trustee is charged with liquidating" rather than permit the Trustee to "lose the licenses in such a way to preserve them for the public interest."<sup>10</sup>

5. The Trustee also submits that the EMT Motion for Stay satisfies the four-part *Virginia Petroleum Jobbers* test. First, the Trustee argues that EMT is likely to prevail on the merits of the stay because its bankruptcy filing invokes Chapter 7 rather than Chapter 11, and notes that it has requested a stay from the bankruptcy court. Second, the Trustee contends that EMT will suffer irreparable harm if a stay is not granted due to its mounting attorney's fees. Third, the Trustee alleges that other parties will not be harmed if the stay is granted since the resulting liquidation of the station licenses and removal of EMT as a Commission licensee "will accomplish the same end result" sought by the Enforcement Bureau and Petitioner Kern. Finally, the Trustee proffers that the public interest favors granting a stay; not only would it allow the Trustee to fund resumption of operations at WQQW, but it would permit the Trustee to initiate transfer proceedings via the Commission's *Second Thursday* doctrine such that the stations would continue to provide service to the St. Louis Metro market.<sup>11</sup>

6. In response, the Enforcement Bureau and Petitioner Kern reiterate that the regulatory exception to the automatic stay of the Bankruptcy Code applies to this case.<sup>12</sup> Further, they contend that the Trustee has failed to demonstrate compliance with the *Virginia Petroleum Jobbers* test that would

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<sup>7</sup> Kern Opposition to Stay at 3 (quoting *Improving Public Safety Communications in the 800 MHz Band*, WT Docket No. 02-55, Fifth Report and Order, 25 FCC Rcd 13874, 13904-05 (2010)).

<sup>8</sup> EB Opposition to Stay at 4.

<sup>9</sup> Kern Opposition to Stay at 2; EB Opposition to Stay at 4-5 (citing *Virginia Petroleum Jobbers Ass'n. v. FPC*, 259 F.2d 921 (1958); *Tennis Channel v. Comcast Cable Communications*, 27 FCC Rcd 9274 (OGC 2012)).

<sup>10</sup> Trustee Reply at 3-4.

<sup>11</sup> *Id.* at 4-7

<sup>12</sup> Enforcement Bureau Surreply at 6-7; Kern Surreply at 2-4.

justify a stay of this hearing proceeding.<sup>13</sup> They additionally argue that questions regarding the fitness of EMT to remain a licensee must be resolved in this proceeding before the licenses can be transferred and that any analysis of the Commission's *Second Thursday* doctrine is premature.<sup>14</sup>

7. The plain language of section 362 of the Bankruptcy Code indicates that the automatic stay triggered by a covered bankruptcy filing does not include "an action or proceeding by a governmental unit" enforcing its "police and regulatory power." The regulation makes no distinction between a Chapter 7 bankruptcy proceeding and a Chapter 11 bankruptcy proceeding. Courts, including the Supreme Court, have consistently held that administrative proceedings such as this are not automatically stayed by a party's bankruptcy filing.<sup>15</sup> As the Commission has explained, "under the well-established principles of the regulatory exception to the automatic stay, a regulatory body can implement its public policies, and even adopt orders directed at particular industry participants, without violating the automatic stay so long as the regulatory body does not seek to enforce a money judgment outside of the bankruptcy claims process."<sup>16</sup>

8. This proceeding does not have its genesis in payment of a debt but was designated for hearing to determine whether EMT's applications for renewal and transfer of its radio stations and its application for a construction permit for a new FM translator station should be granted pursuant to the Communications Act and FCC regulations.<sup>17</sup> The Commission's longstanding policy is that it will not, absent exceptional circumstances, renew or approve assignment or transfer of licenses when the licensee's qualifications to hold a license are in question.<sup>18</sup> Known as the *Jefferson Radio* policy, it is intended to "provide a deterrent to licensee misconduct by preventing a licensee from avoiding the loss that would

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<sup>13</sup> Enforcement Bureau Surreply at 7-10; Kern Surreply at 4-7.

<sup>14</sup> Enforcement Bureau Surreply at 1-5; Kern Surreply at 7.

<sup>15</sup> *Board of Governors of the Federal Reserve System v. MCorp Financial, Inc.*, 502 U.S. 32 (1991) (section 362(b)(4) exception to automatic stay provision of Bankruptcy Code applied to allow action by the Board of Governors of the Federal Reserve to prosecute administrative proceedings against bankrupt entity); *Wallaesa v. FAA*, 824 F.3d 1071, 1085 n.3 (D.C. Cir. 2016) (section 362(b)(4) exception from bankruptcy stay applied to civil penalty proceeding brought by FAA against unruly airline passenger); *Eddleman v. U.S. Dept. of Labor*, 932 F.2d 782 (10<sup>th</sup> Cir. 1991) (Department of Labor suit to collect wages due employees of bankrupt employer under Service Control Act was action to enforce statute and therefore within scope of section 362(b)(4) exception from bankruptcy stay), *overruled in part on other grounds by Temex Energy, Inc. v. Underwood, Wilson, Berry, Stein & Johnson*, 968 F.3d 1003, 1005 n.3 (10<sup>th</sup> Cir. 1992).

<sup>16</sup> *Improving Public Safety Communications in the 800 MHz Band*, WT Docket No. 02-55, Fifth Report and Order, Eleventh Report and Order, Sixth Report and Order, and Declaratory Ruling, 25 FCC Rcd 13874, 13904-05 para. 75 (2010) (citations omitted). Notably, in *FCC v. NextWave Personal Communications Inc.*, 537 U.S. 293 (2003), the Court held that section 525 of the Bankruptcy Code prohibited the FCC from revoking licenses held by a bankruptcy debtor for its failure to make timely installment payments on licenses for which it was the high bidder at auction. The Court pointed out that unlike section 362, section 525 does not include a "valid regulatory purpose" exception. *NextWave* at 302. In distinguishing *NextWave* in the context of a stay request under section 362, the Commission observed, "*FCC v. NextWave* does not support a wholesale bankruptcy exception to otherwise enforceable regulatory requirements." *Emergency Application for Review and Request for Stay of Globalstar, L.P.*, 19 FCC Rcd 11548, 11562-63, paras. 32-33 (2004) (cancellation of bankrupt satellite provider's license due to failure to meet construction deadline was regulatory action excepted from the automatic stay under section 362(b)(4)).

<sup>17</sup> *Applications of Entertainment Media Trust*, MB Docket No. 19-156, Hearing Designation Order and Notice of Opportunity for Hearing, DA 19-506, 2019 WL 2409558 (MB June 5, 2019) (*Hearing Designation Order*).

<sup>18</sup> See *Jefferson Radio Co., Inc. v. FCC*, 340 F.2d 781 (D.C. Cir. 1964).

result from revocation or non-renewal of a license.”<sup>19</sup> In service of this deterrent purpose, the Commission has rejected the notion that bankruptcy removes a particular case from its ambit,<sup>20</sup> and has noted that it is not required to subordinate its licensing policies to bankruptcy considerations.<sup>21</sup> The Commission has recognized that an unfavorable decision can result in fewer assets being available to satisfy claims by creditors of a bankrupt licensee, but has determined that that is not in itself a sufficient basis for renewing or approving the assignment or transfer of a license.<sup>22</sup> To account for equitable consideration of innocent creditors, however, the Commission has promulgated the *Second Thursday* doctrine. The *Second Thursday* doctrine is a discretionary exception to the *Jefferson Radio* policy available to a licensee in bankruptcy that allows for assignment of a license before final determination of the licensee’s qualifications, but only if the licensee or other alleged wrongdoers gain no substantial benefit from the assignment, putting the licensee in the same position as if its license had been revoked or not renewed.<sup>23</sup>

9. Against this backdrop, the inquiry initiated by the *Hearing Designation Order* in this proceeding regarding the propriety of granting the applications advanced by EMT is exactly the kind of exercise of police and regulatory power that section 362(b)(4) exempts from the automatic stay. Concerns about a reduction in the sales value of the licenses are not part of our inquiry and do not operate to convert this licensing matter into the type of action to enforce a monetary judgement to which the automatic stay applies. Nor does the *Hearing Designation Order* designate for consideration any issues related to payment of regulatory fees or of any other sums to the Commission or to the United States Treasury. Indeed, regulatory fees neither were due nor delinquent at the time that EMT’s applications were designated for hearing.<sup>24</sup> While the FCC is listed as a creditor in EMT’s bankruptcy filing, this proceeding is entirely separate from any effort the FCC may ultimately undertake to collect that debt.

10. Absent operation of the mandatory stay provision of the Bankruptcy Code, the EMT Motion for Stay must be assessed in light of the four-factor test established in *Virginia Petroleum Jobbers Ass’n v. FPC*, as modified by *Washington Metropolitan Area Transit Commission v. Holiday Tours, Inc.*<sup>25</sup> Consistent with this test, it is Commission practice that a party seeking stay of a Commission action must demonstrate that (1) it is likely to prevail on the merits; (2) it will suffer irreparable harm if a stay is not granted; (3) other interested parties will not be harmed if the stay is granted; and (4) the public interest

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<sup>19</sup> *Maritime Communications/Land Mobile, LLC*, WT Docket No. 13-85 and EB Docket No. 11-71, Memorandum Opinion and Order, 29 FCC Rcd 10871, 10876, para. 15 (2014) (*2014 Maritime Order*).

<sup>20</sup> *Capital City Communications*, Docket No. 19067, Memorandum Opinion and Order, 33 F.C.C.2d 703, 707, para. 14, *recon. denied*, 34 F.C.C.2d 685 (1972).

<sup>21</sup> *Martin W. Hoffman, Trustee-in-Bankruptcy for Astroline Communications Company Limited Partnership*, MM Docket No. 97-128, Memorandum Opinion and Order and Hearing Designation Order, 12 FCC Rcd 5224, 5229, para. 11 (1997).

<sup>22</sup> *Capital City Communications* at 709, para. 17.

<sup>23</sup> See *Second Thursday Corp.*, Docket Nos. 17914 and 18175, Memorandum Opinion and Order, 22 F.C.C.2d 515, *recon. granted in part*, 25 F.C.C.2d 112 (1970).

<sup>24</sup> The debt to the FCC cited in EMT’s bankruptcy filing represents annual regulatory fees due on September 24, 2019. See *Fee Filer Is Open For Payment Of Fiscal Year (FY) 2019 Regulatory Fees; FY 2019 Regulatory Fees Are Due September 24, 2019*, Public Notice (MD Aug. 28, 2019) <https://docs.fcc.gov/public/attachments/DOC-359339A1.pdf>.

<sup>25</sup> *Virginia Petroleum Jobbers Ass’n v. FPC*, 259 F.2d 921 (D.C. Cir. 1958); *Washington Metro Area Transit Commission v. Holiday Tours, Inc.*, 559 F.2d 841 (D.C. Cir. 1977).

favors grant of a stay.<sup>26</sup>

11. *Likelihood of success on the merits.* Neither EMT nor the Trustee has attempted to claim that EMT will prevail in this proceeding. The EMT Motion for Stay doesn't address the *Virginia Petroleum Jobbers* test at all, and the Trustee appears to believe that this prong of the test requires a showing that EMT is likely to prevail in the bankruptcy court rather than in this proceeding. On the contrary – the test requires that the movant show that it is likely to succeed with respect to the action it is seeking to stay, i.e., this hearing proceeding. Moreover, in claiming a likelihood of success in the bankruptcy proceeding, the Trustee merely notes that a motion for stay has been filed with the bankruptcy court and advances, without providing any support, the argument that the exception to the automatic stay “is predicated on Chapter 11 proceedings” and therefore is inapplicable to its Chapter 7 bankruptcy filing.<sup>27</sup> By any interpretation of this aspect of the requirements to justify a stay, EMT and the Trustee fall short.

12. *Irreparable harm.* The Trustee contends that EMT will suffer irreparable harm if the requested stay is not granted because “[c]ontinuing the proceeding will result in tremendous legal fees which will drastically reduce the potential proceeds from any Chapter 7 liquidation and leave little, if anything, for the Commission, should it seek to collect a forfeiture.”<sup>28</sup> As noted above, nowhere in this proceeding has the possibility of forfeiture been discussed. The *Hearing Designation Order* delineates eight specific issues aimed at determining whether the applications filed by EMT should be granted.<sup>29</sup> Consideration of a forfeiture penalty is not included among the designated issues. Moreover, apart from the FCC regulatory fees now due, the only debts cited in EMT's bankruptcy filing are owed to the attorneys who have represented it in this proceeding.<sup>30</sup> While it is understandably the Trustee's aim to preserve the maximum value of the debtor's estate, the Supreme Court has ruled that, “[m]ere litigation expense, even substantial and unrecoupable cost, does not constitute irreparable injury.”<sup>31</sup> The Trustee accordingly has failed to demonstrate that denial of a stay will cause EMT irreparable harm.

13. *Effect on other parties.* The Trustee posits that other interested parties will not be harmed if the requested stay is granted. In particular, the Trustee argues that “[b]ecause there are already known interested third-party buyers, it is anticipated a liquidation of all of the EMT assets can move swiftly.”<sup>32</sup> In turn, the Trustee contends, transfer of the stations “will accomplish the same end result sought by the Enforcement Bureau – the termination of EMT's FCC license interests and the termination

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<sup>26</sup> See, e.g., *Rural Call Completion*, WC Docket No. 13-39, Third Report and Order, 33 FCC Rcd 8400, 8417, para. 47 (2018); *Protecting the Privacy of Customers of Broadband and other Telecommunications Services*, WC Docket No. 16-06, Order Granting Stay Petition in Part, 32 FCC Rcd 1793, 1796-97 para. 7 (2017); *Tennis Channel, Inc. v. Comcast Cable Communications*, MM Docket No. 10-204, Order, 27 FCC Rcd 9274, 9279, para. 17 (OGC 2012).

<sup>27</sup> Trustee Reply at 4.

<sup>28</sup> *Id.* at 5.

<sup>29</sup> *Hearing Designation Order* at para. 65.

<sup>30</sup> Petition for Chapter 7 Bankruptcy of Entertainment Media Trust, *Entertainment Media Trust, Debtor, Donald M. Samson, Trustee v. Federal Communications Commission*, Case No. 19-31224-lkg, Bankr. S.D. Ill. at Schedule D, Schedule E/F (filed Sept. 11, 2019).

<sup>31</sup> *Renegotiation Board v. Bannerkraft Clothing Co., Inc.*, 415 U.S. 1 (1974).

<sup>32</sup> Trustee Reply at 5.

of any real-party-in-interest or unauthorized control over the licensees – far more efficiently than this proceeding will.”<sup>33</sup> The Trustee appears to rely on the aforementioned *Second Thursday* doctrine, which is a discretionary exception to the *Jefferson Radio* policy that allows for approval of an assignment or transfer of a license without first resolving outstanding questions regarding a bankrupt licensee’s qualifications, provided that alleged wrongdoers will not benefit from the sale and the proceeds will be used to reimburse innocent creditors.<sup>34</sup> The applicability of *Second Thursday* to this proceeding is not yet ripe for discussion, as the Trustee acknowledges in his reply.<sup>35</sup> Yet the Trustee appears to assume that he will prevail on this point. In so doing, the Trustee loses sight of the fact-specific and detailed analysis inherent in this very narrow, discretionary exception to the general rule. To wit, “[a]pplication of *Second Thursday* requires an ad hoc balancing of the possible injury to regulatory authority that might flow from wrongdoers’ realization of benefit against the public interest in innocent creditors’ recovery from the sale and assignment of the license to a qualified party.”<sup>36</sup> This proceeding has simply not elicited enough information with respect to a potential *Second Thursday* sale to support the Trustee’s argument that grant of a stay will not adversely affect other interested parties, which in this case include not only the Enforcement Bureau and Petitioner Kern but also this agency and the public. Accordingly, the Trustee has not shown that grant of the stay will not harm other interested parties.

14. *Public interest considerations.* Finally, the Trustee submits that the public interest favors grant of the requested stay. He argues that “the economic impact of this proceeding on the stations’ ability to provide programming responsive to their communities of license has already been deleterious,” in that Station WQQW-AM has been off-air because of technical issues that it cannot afford to repair due to the expense of this proceeding.<sup>37</sup> As noted above, the cost of this proceeding is not a persuasive justification for a stay. Further, the Trustee contends, grant of a stay would allow for orderly transfer of the licenses under the *Second Thursday* doctrine, which would permit them to remain on the air rather than be permanently removed from the market.<sup>38</sup> To this point, the Trustee notes that “Media Bureau officials have indicated in informal conversations that it is now policy to not re-auction cancelled AM station licenses.”<sup>39</sup> In seeking to persuade the bankruptcy court to issue a stay, however, the Trustee asserts that “[t]he FCC has a direct financial interest in the Broadcast Licenses being cancelled; the FCC will most likely take them back into its spectrum inventory and resell them to private entities via auction.”<sup>40</sup> This apparent asymmetry of argument illustrates the larger point that there are a number of factual and legal issues that have not yet been sufficiently explored in this proceeding. The Communications Act requires that in considering an application for a new license, or an application to

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<sup>33</sup> *Id.* at 6.

<sup>34</sup> *Maritime Communications/Land Mobile, LLC*, EB Docket No. 11-71, Memorandum Opinion and Order, 33 FCC Rcd 11822, 11823 n.7 (2018) (*2018 Maritime Order*).

<sup>35</sup> Trustee Reply at 8-9.

<sup>36</sup> *LaRose v. FCC*, 494 F.2d 1145, 1149 (D.C. Cir. 1974).

<sup>37</sup> Trustee Reply at 6.

<sup>38</sup> *Id.* at 7-8.

<sup>39</sup> *Id.* at 7 n.4.

<sup>40</sup> Donald M. Sampson, Trustee, Memorandum of Law in Support of Emergency Motion to Enforce the Automatic Stay or in the Alternative Issue a Stay Order, *Entertainment Media Trust, Debtor, Donald M. Sampson, Trustee v. Federal Communications Commission*, Case No. 19-31224-lkg, Bankr. S.D. Ill. at 11 (filed Sept. 27, 2019).

renew, assign, or transfer a license, the fundamental consideration of the Commission is whether the public interest, convenience, and necessity will be served by granting that application.<sup>41</sup> The initiation of an administrative hearing in this matter indicates an affirmative determination that the public interest necessitates detailed and specific inquiry into the propriety of granting EMT's applications. Rather than support a stay, the public interest demands that this proceeding continue in due course.

15. While EMT and Trustee Samson have not provided sufficient justification to support a long-term stay of this hearing proceeding, one procedural point does warrant a brief delay in discovery. Currently pending before the Commission is an application for involuntary assignment of the licenses that are the subject of this proceeding from EMT to the Trustee.<sup>42</sup> While the Presiding Judge granted the Trustee leave to submit a reply to the oppositions filed in response to the EMT Motion for Stay for the limited purpose of fully assessing that request, the Trustee is not presently a party to this proceeding. The Presiding Judge finds that a brief pause in discovery is warranted to enable the Media Bureau to resolve the application for involuntary assignment. If the assignment application is granted, the Trustee will have four calendar days from the date of that grant to file a petition for leave to intervene in this proceeding pursuant to section 1.223 of the Commission's rules, 47 CFR. § 1.223. Until further notice, no additional discovery will be permitted in this proceeding. The Presiding Judge intends to subsequently issue an Order that will address discovery issues and related matters as well as the continued viability of the timeline previously established for completion of this proceeding.<sup>43</sup>

16. Accordingly, IT IS ORDERED that the Motion for Stay of Proceedings or In the Alternative Extension of Time filed on September 11, 2019 by Entertainment Media Trust, Dennis J. Watkins, Trustee, IS DENIED.

17. IT IS FURTHER ORDERED that discovery in this proceeding is temporarily suspended until further order of the Presiding Judge following resolution of the Application for Consent to Assign Broadcast Station Construction Permit or License or to Transfer Control of Entity Holding Broadcast Station Construction Permit or License filed on behalf of Entertainment Media Trust on September 16, 2019, regarding the above-captioned stations.

18. IT IS FURTHER ORDERED that, in the event the pending application for involuntary assignment referenced above is granted, Trustee in Bankruptcy Donald M. Samson SHALL FILE a petition for leave to intervene in this proceeding pursuant to section 1.223 of the Commission's rules, 47 C.F.R. § 1.223, WITHIN FOUR CALENDAR DAYS of said grant.

FEDERAL COMMUNICATIONS COMMISSION



Jane Hinckley Halprin  
Administrative Law Judge

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<sup>41</sup> 47 U.S.C. §§ 309, 310.

<sup>42</sup> Entertainment Media Trust, Application for Consent to Assign Broadcast Station Construction Permit or License or to Transfer Control of Entity Holding Broadcast Station Construction Permit or License, Form FCC-316, File No. BTC-20100916AAA (filed Sept. 9, 2019).

<sup>43</sup> Entertainment Media Trust, Order, MB Docket No. 19-156, FCC 19M-05 (July 11, 2019).